

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1482

By: Treat

4
5
6 AS INTRODUCED

7 An Act relating to income tax credit; amending 68
8 O.S. 2021, Section 2357.4, which relates to tax
9 credit for investments; providing credit for certain
10 investment in qualified depreciable property;
11 providing requirements for eligibility to claim
12 credit; prescribing amount of credit; and declaring
13 an emergency.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.4, is
16 amended to read as follows:

17 Section 2357.4. A. Except as otherwise provided in subsection
18 F of Section 3658 of this title and in subsections ¶ L and ¶ M of
19 this section, for taxable years beginning after December 31, 1987,
20 there shall be allowed a credit against the tax imposed by Section
21 2355 of this title for:

22 1. Investment in qualified depreciable property placed in
23 service during those years for use in a manufacturing operation, as
24 defined in Section 1352 of this title, which has received a
25 manufacturer exemption permit pursuant to the provisions of Section

1 1359.2 of this title or a qualified aircraft maintenance or
2 manufacturing facility in this state as defined in Section 1357 of
3 this title ~~in this state~~ or a qualified web search portal as defined
4 in Section 1357 of this title; or

5 2. A net increase in the number of full-time-equivalent
6 employees in a manufacturing operation, as defined in Section 1352
7 of this title, which has received a manufacturer exemption permit
8 pursuant to the provisions of Section 1359.2 of this title or a
9 qualified aircraft maintenance or manufacturing facility defined in
10 Section 1357 of this title in this state or in a qualified web
11 search portal as defined in Section 1357 of this title including
12 employees engaged in support services.

13 B. Except as otherwise provided in subsection F of Section 3658
14 of this title and in subsections ¶ L and ¶ M of this section, for
15 taxable years beginning after December 31, 1998, there shall be
16 allowed a credit against the tax imposed by Section 2355 of this
17 title for:

18 1. Investment in qualified depreciable property with a total
19 cost equal to or greater than Forty Million Dollars (\$40,000,000.00)
20 within three (3) years from the date of initial qualifying
21 expenditure and placed in service in this state during those years
22 for use in the manufacture of products described by any Industry
23 Number contained in Division D of Part I of the Standard Industrial
24 Classification (SIC) Manual, latest revision; or

1 2. A net increase in the number of full-time-equivalent
2 employees in this state engaged in the manufacture of any goods
3 identified by any Industry Number contained in Division D of Part I
4 of the Standard Industrial Classification (SIC) Manual, latest
5 revision, if the total cost of qualified depreciable property placed
6 in service by the business entity within the state equals or exceeds
7 Forty Million Dollars (\$40,000,000.00) within three (3) years from
8 the date of initial qualifying expenditure.

9 C. The business entity may claim the credit authorized by
10 subsection B of this section for expenditures incurred or for a net
11 increase in the number of full-time-equivalent employees after the
12 business entity provides proof satisfactory to the Oklahoma Tax
13 Commission that the conditions imposed pursuant to paragraph 1 or
14 paragraph 2 of subsection B of this section have been satisfied.

15 D. If a business entity fails to expend the amount required by
16 paragraph 1 or paragraph 2 of subsection B of this section within
17 the time required, the business entity may not claim the credit
18 authorized by subsection B of this section but shall be allowed to
19 claim a credit pursuant to subsection A of this section if the
20 requirements of subsection A of this section are met with respect to
21 the investment in qualified depreciable property or net increase in
22 the number of full-time-equivalent employees.

23 E. For tax year 2022 and subsequent tax years, there shall be
24 allowed a credit against the tax imposed by Section 2355 of this

1 title for an establishment which creates at least one thousand
2 (1,000) new direct jobs, as defined in Section 3603 of this title,
3 and invests at least Seven Hundred Fifty Million Dollars
4 (\$750,000,000.00) in qualified depreciable property in this state
5 within five (5) years of the start date.

6 F. The credit provided for in subsection A of this section, if
7 based upon investment in qualified depreciable property, shall not
8 be allowed unless the investment in qualified depreciable property
9 is at least Fifty Thousand Dollars (\$50,000.00). The credit
10 provided for in subsection A or B of this section shall not be
11 allowed if the applicable investment is the direct cause of a
12 decrease in the number of full-time-equivalent employees. Qualified
13 property shall be limited to machinery, fixtures, equipment,
14 buildings, or substantial improvements thereto, placed in service in
15 this state during the taxable year. The taxable years for which the
16 credit may be allowed if based upon investment in qualified
17 depreciable property shall be measured from the year in which the
18 qualified property is placed in service. If the credit provided for
19 in subsection A or B of this section is calculated on the basis of
20 the cost of the qualified property, the credit shall be allowed in
21 each of the four (4) subsequent years. If the qualified property on
22 which a credit has previously been allowed is acquired from a
23 related party, the date ~~such~~ the property is placed in service by
24 the transferor shall be considered ~~to be~~ the date ~~such~~ the property

1 is placed in service by the transferee, for purposes of determining
2 the aggregate number of years for which credit may be allowed.

3 ~~F.~~ G. The credit provided for in subsection A or B of this
4 section, if based upon an increase in the number of full-time-
5 equivalent employees, shall be allowed in each of the four (4)
6 subsequent years only if the level of new employees is maintained in
7 the subsequent year. In calculating the credit by the number of new
8 employees, only those employees whose paid wages or salary were at
9 least Seven Thousand Dollars (\$7,000.00) during each year the credit
10 is claimed shall be included in the calculation. Provided, that the
11 first year a credit is claimed for a new employee, ~~such~~ the employee
12 may be included in the calculation notwithstanding paid wages of
13 less than Seven Thousand Dollars (\$7,000.00) if the employee was
14 hired in the last three quarters of the tax year, has wages or
15 salary which will result in annual paid wages in excess of Seven
16 Thousand Dollars (\$7,000.00) and the taxpayer submits an affidavit
17 stating that the employee's position will be retained in the
18 following tax year and will result in the payment of wages in excess
19 of Seven Thousand Dollars (\$7,000.00). The number of new employees
20 shall be determined by comparing the monthly average number of full-
21 time employees subject to Oklahoma income tax withholding for the
22 final quarter of the taxable year with the corresponding period of
23 the prior taxable year, as substantiated by such reports as may be
24 required by the Tax Commission.

1 ~~G.~~ H. The credit allowed by subsection A of this section shall
2 be the greater amount of either:

3 1. One percent (1%) of the cost of the qualified property in
4 the year the property is placed in service; or

5 2. Five Hundred Dollars (\$500.00) for each new employee. No
6 credit shall be allowed in any taxable year for a net increase in
7 the number of full-time-equivalent employees if ~~such~~ the increase is
8 a result of an investment in qualified depreciable property for
9 which an income tax credit has been allowed as authorized by this
10 section.

11 ~~H.~~ I. The credit allowed by subsection B of this section shall
12 be the greater amount of either:

13 1. Two percent (2%) of the cost of the qualified property in
14 the year the property is placed in service; or

15 2. One Thousand Dollars (\$1,000.00) for each new employee.

16 No credit shall be allowed in any taxable year for a net
17 increase in the number of full-time-equivalent employees if such
18 increase is a result of an investment in qualified depreciable
19 property for which an income tax credit has been allowed as
20 authorized by this section.

21 J. The credit allowed by subsection E of this section shall be
22 three percent (3%) of the cost of the qualified property in the year
23 the property is placed in service.

1 ~~F.~~ K. Except as provided by subsection G of Section 3658 of
2 this title, any credits allowed but not used in any taxable year may
3 be carried over in order as follows:

4 1. To each of the four (4) years following the year of
5 qualification;

6 2. To the extent not used in those years in order to each of
7 the fifteen (15) years following the initial five-year period;

8 3. If a C corporation that otherwise qualified for the credits
9 under subsection A of this section subsequently changes its
10 operating status to that of a pass-through entity which is being
11 treated as the same entity for federal tax purposes, the credits
12 will continue to be available as if the pass-through entity had
13 originally qualified for the credits subject to the limitations of
14 this section;

15 4. To the extent not used in paragraphs 1 and 2 of this
16 subsection, such credits from qualified depreciable property placed
17 in service on or after January 1, 2000, may be utilized in any
18 subsequent tax years after the initial twenty-year period; and

19 5. Provided, for tax years beginning on or after January 1,
20 2016, and ending on or before December 31, 2018, the amount of
21 credits available as an offset in a taxable year shall be limited to
22 the percentage calculated by the Tax Commission pursuant to the
23 provisions of subsection ~~F.~~ N of this section.

1 ~~J.~~ L. No credit otherwise authorized by the provisions of this
2 section may be claimed for any event, transaction, investment,
3 expenditure, or other act occurring on or after July 1, 2010, for
4 which the credit would otherwise be allowable until the provisions
5 of this subsection shall cease to be operative on July 1, 2012.
6 Beginning July 1, 2012, the credit authorized by this section may be
7 claimed for any event, transaction, investment, expenditure or other
8 act occurring on or after July 1, 2010, according to the provisions
9 of this section; provided, credits accrued during the period from
10 July 1, 2010, through June 30, 2012, shall be limited to a period of
11 two (2) taxable years. The credit shall be limited in each taxable
12 year to fifty percent (50%) of the total amount of the accrued
13 credit. Any tax credits which accrue during the period of July 1,
14 2010, through June 30, 2012, may not be claimed for any period prior
15 to the taxable year beginning January 1, 2012. No credits which
16 accrue during the period of July 1, 2010, through June 30, 2012, may
17 be used to file an amended tax return for any taxable year prior to
18 the taxable year beginning January 1, 2012.

19 ~~K.~~ M. Beginning January 1, 2017, except with respect to tax
20 credits allowed from investment or job creation occurring prior to
21 January 1, 2017, the credits authorized by this section shall not be
22 allowed for investment or job creation in electric power generation
23 by means of wind as described by the North American Industry
24 Classification System, ~~No. 221119~~ No. 221115.

1 ~~H.~~ N. For tax years beginning on or after January 1, 2016, and
2 ending on or before December 31, 2018, the total amount of credits
3 authorized by this section used to offset tax shall be adjusted
4 annually to limit the annual amount of credits to Twenty-five
5 Million Dollars (\$25,000,000.00). The Tax Commission shall annually
6 calculate and publish a percentage by which the credits authorized
7 by this section shall be reduced so the total amount of credits used
8 to offset tax does not exceed Twenty-five Million Dollars
9 (\$25,000,000.00) per year. The formula to be used for the
10 percentage adjustment shall be Twenty-five Million Dollars
11 (\$25,000,000.00) divided by the credits used to offset tax in the
12 second preceding year.

13 ~~M.~~ O. Pursuant to subsection ~~H.~~ N. of this section, in the event
14 the total tax credits authorized by this section exceed Twenty-five
15 Million Dollars (\$25,000,000.00) in any calendar year, the Tax
16 Commission shall permit any excess over Twenty-five Million Dollars
17 (\$25,000,000.00) but shall factor such excess into the percentage
18 adjustment formula for subsequent years.

19 SECTION 2. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

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